



*DAE*  
*JPW*

Attorney Docket No. 979-037

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of

Schmidt

Examiner: Cooke

Serial No: 10/692,308

Art Unit Unit: 1754

Filed: January 7, 2004

For: SUPER CONDUCTING CABLE CONDUCTOR WITH REBCO-  
COATED CONDUCTOR ELEMENTS

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**PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION**  
**UNDER 37 CFR 1.137(b)**

**Mail Stop Petitions**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

SIR:

In connection with the above identified application, please allow the following to serve as a Petition to Revive the Unintentionally Abandoned Application.

To place this Petition in full terms for granting and issue, Applicant hereby submits this Petition to Revive Unintentionally Abandoned Application to revive this application and to pay the required issue fee/publication fee.

Pursuant to 37 CFR 1.137(b)(1) the entire required reply is submitted herewith. In particular the combined issue fee and publication fee of \$1,700.00 is enclosed.

Pursuant to 37 CFR 1.137(b)(2), a check in the amount of \$1,500.00 under 37 CFR 1.17(m) is also enclosed.

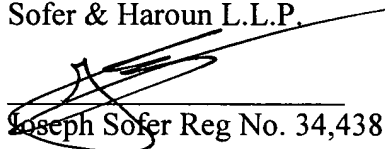
Pursuant to 37 CFR 1.137(b)(3), Applicant *hereby asserts that the entire delay in filing this issue fee/publication fee balance up to the filing of this grantable petition was unintentional. At all times, the Applicant wished to continue prosecution and issue of this application.*

In view of the foregoing, Applicant submits that this Petition is in grantable order and respectfully requests that the enclosed application proceed to issue accordingly. If the Petitions officer reviewing this application requires any additional information they are invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted

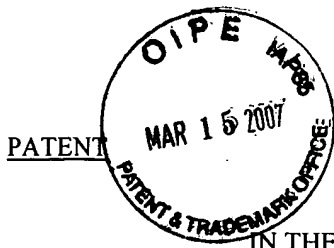
Sofer & Haroun L.L.P.

By:



Joseph Sofer Reg No. 34,438  
317 Madison Avenue  
Suite 910  
New York, NY 10017  
(212) 697-2800  
Customer # 39600

Dated: March 13, 2007



PATENT

Docket No.: 979-037

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Schmidt  
Serial No. : 10/692,308  
Filed : January 7, 2004  
For : SUPER CONDUCTING CABLE CONDUCTOR WITH REBCO-COATED CONDUCTOR  
ELEMENTS

CERTIFICATE OF MAILING (37 C.F.R. 1.8a)

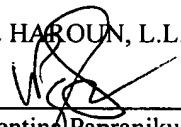
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I hereby certify that the attached Petition to Revive Unintentionally abandoned Application under 37 CFR 1.137, Copy of Notice, Checks for \$1,700.00 & \$1,500.00, Issue Fee Transmittal, and Return Postcard along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on the date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, V.A. 22313-1450.

Respectfully submitted,

SOFER & HAROUN, L.L.P.

By:   
Valentina Papraniku

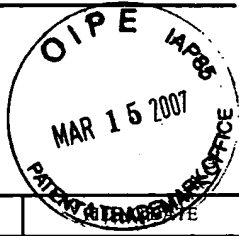
Date: March 13, 2007

Mailing Address:

SOFER & HAROUN, L.L.P.  
317 Madison Avenue, Suite 910  
New York, New York 10017  
Tel:(212)697-2800  
Fax:(212)697-3004



# UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,308

10/22/2003

Frank Schmidt

979-037

8584

7590  
SOFER & HAROUN, LLP  
Suite 910  
317 Madison Avenue  
New York, NY 10017

02/16/2007

EXAMINER

COOKE, COLLEEN P

ART UNIT

PAPER NUMBER

1754

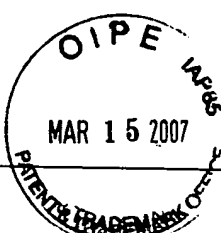
MAIL DATE

DELIVERY MODE

02/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.



# **Notice of Abandonment**

Application No.

10/692,308

Examiner

COOKE, COLLEEN P

Applicant(s)

Frank Schmidt

Art Unit

1754

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–**

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

AG

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



## Attachment to Notice of Abandonment

**For questions concerning the notice contact  
Office of Patent Publication  
Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:  
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### **Respond to the Notice of Abandonment by one of the following:**

**1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

**2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

**3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

**Note:** Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment